

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

PHILLIPS 66 COMPANY	:	CIVIL ACTION
	:	
v.	:	NO. 24-2914
	:	
1842 RIDGE AVE LLC	:	

ORDER

AND NOW, this 10th day of December 2024, upon considering Plaintiffs' Motion for contempt (ECF 20) seeking an Order allowing Plaintiff's agents to remove and seize trade dress from 1840 Ridge Ave, Philadelphia, PA 19121, evidence presented during a contempt hearing (ECFs 21, 23), for the reasons in today's accompanying Memorandum with findings of fact and conclusions of law, and for good cause, it is **ORDERED** we **GRANT in part** Plaintiff's Motion (ECF 20) upon finding clear and convincing evidence Defendant is in **contempt** of this Court's October 10, 2024 Order (ECF 19) which permanently enjoined Defendant from using the CONOCO Marks & Trade Dress, any element thereof, and any other name, mark, or trade dress confusingly like the CONOCO Marks & Trade Dress¹ and requiring we grant Plaintiff leave:

1. Plaintiff's representatives, Ryan A. McGonigle, Esquire (a member of the Pennsylvania Bar), Alexandra Bistline, Esquire (a member of the Texas Bar specially admitted for this case [ECF 10]), employees of Phillips 66, and all persons acting under their supervision including a locksmith and painter, upon consulting the United States Marshal to set a date and time and satisfying financial obligations related to the U.S. Marshal effort, **to enter premises at 1840 Ridge Avenue, Philadelphia, Pennsylvania 19121 and effect the seizure and removal, or the repainting in white**, of displays of the CONOCO Marks & Trade Dress on two high street signs, dissembled non-operable gas pumps, and along the bottom of posts, as well as maintain exclusive custodial control, including specifically:

a. The removal and seizure of panels on disconnected fuel dispensers bearing the CONOCO Marks & Trade Dress, or if the panels are unable to be separated from the fuel dispensers, painting over the CONOCO Marks & Trade Dress;

b. The removal and seizure of skirts on the fuel dispensers bearing the CONOCO Marks & Trade Dress, or if the panels are unable to be separated from the fuel dispensers, painting over the CONOCO Marks & Trade Dress;

c. The removal and seizure of the panels on the two elevated high-rise street signs displaying the CONOCO Mark and/or the Open Road Logo (including any panels covered by other temporary signage), or if the panels are unable to be separated from the sign, painting over the CONOCO Marks & Trade Dress; and,

d. The painting over in white of any red and silver striping on the pillar(s) of the high rise street sign(s);

2. Phillips 66's representatives and agents may operate equipment necessary to inspect the infringing site and remove, seize, or paint over in white CONCOO Marks & Trade Dress without removing the fixtures absent an Order following notice to all potential owners of those fixtures;

3. The United States Marshal, including deputy Marshals, are authorized to aid if necessary in the peaceful compliance with this Order and to use all reasonable force necessary to effectuate the terms of this Order upon appropriate arrangements and anyone interfering with the execution of this Order is subject to arrest by the United States Marshal, including deputy Marshals;

4. The United States Marshal, including deputy Marshals, are directed to assist Phillips 66's representatives and agents in conducting an inventory and photographing all trade

dress seized and removed from 1840 Ridge Avenue, Pennsylvania, Philadelphia, or painted over at this location upon appropriate arrangements;

5. Phillips 66 shall provide Defendant with at least three business days' written notice of the day it intends to seize the infringing material and thereafter file a certification within ten days of the seizure and/or covering of the trade dress;

6. Phillips 66 shall maintain custody and may not destroy the seized trade dress without an Order and after proper notice to any potential owner as well as the United States Attorney for the Eastern District of Pennsylvania under 15 U.S.C. § 1118; and,

7. Phillips 66 shall serve Defendant by certified mail and publication notice on the property with a copy of this Order by no later than **December 16, 2024** and file an affidavit confirming service consistent with this Order by no later than **December 18, 2024**; and,

8. The Clerk shall forthwith mail a copy of this Order to Defendant at 1840 Ridge Ave, Philadelphia, PA 19121.


 KEARNEY, J.

¹Phillips 66 owns trademark and trade dress at issue:

- a. The mark CONOCO;
- b. The CONOCO Capsule Device and the Road Design Logo; and,



c. The fuel dispenser and island elements, a 45-degree angle red and silver striping on the canopy and fuel dispenser valences, a canopy and fuel island design including red and silver striping on the poles, and other distinctive components, for example:

